MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2016/2017

UPP4622 – PROFESSIONAL PRACTICE II

(All Sections / Groups)

24th FEBRUARY 2017
Reading Time : 3.00 p.m. – 3.15 p.m.
(15 Minutes)
Answering Time: 3.15 p.m. – 6.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 4 pages with 4 Questions only.

3. **Section A** is **COMPULSORY** and carries 75 marks. In **Section B** attempt any **ONE** out of **TWO** questions. The distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall **CLEAN** and **ORIGINAL** copies of: (i) Contracts Act 1950, (ii) Civil Law Act 1956, (iii) Road Transport Act 1987, (iv) Courts of Judicature Act 1964 (Act 91), (v) Probate and Administration Act 1959 (Act 97) & Regulations, (vii) Small Estates (Distribution) Act 1955 (Act 98) & Regulations, (viii) Rules of Court 2012 (x) Power of Attorney Act 1949 (Act 424) and (ix) Wills Act 1959 (Act 346).
   Students are not allowed to lend or borrow statute(s) during the Examination

5. Please write all your answers in the Answer Booklet provided.

SECTION A (Compulsory- Answer both Question 1 and Question 2)

QUESTION 1

Kelly aged 35years old was driving m/car no. ARD222 along Jalan Kasap to Jalan Indah on 5.7.2014 at about 9.30a.m., when suddenly a m/lorry no. BSD4555 coming from the opposite direction, overtook and encroached into her side of the road and collided into her m/car. The said m/lorry was driven by Jaim.

The front portion of Kelly's m/car sustained serious damage and the damage to the m/lorry also in the front right portion. Most of the glass splinters were found on Kelly's side of the road.

According to Jaim's police report, that was made 2 (two) hours after the collision, the accident happened due to the fault of the driver of m/car no. ADR222. The driver was driving at a high speed and did not slow down upon seeing his m/lorry overtaking and encroached onto her side of the road. Kelly however, in her police report made on the night of 5.7.2014 at about 9.00 p.m. stated that the m/lorry driver was at fault. The m/lorry which was from the opposite direction encroached onto her lane whilst overtaking another vehicle on its lane. She further alleged that the m/lorry driver was under the influence of alcohol, did not exercise care and panicked when he overtook and encroached onto her side of the road.

Kelly had two passengers in her m/car at the time of the said accident, Kari aged 21 years old and Ms. Tini, a housewife aged 34 years old. Both Kari and Ms. Tini died in the accident. Kari died on the way to Hospital Berserah, while Ms. Tini died immediately after the collision. Kari was not married and was taken care by his grandparents, Mr. and Mrs. Lepat aged 63 and 60 respectively. Kari's parents, Mr. and Mrs. Ketupat were separated a few years ago and have their own lives.

Kari was earning RM1,200 per month, working as a technician at UTT Sdn. Bhd. Mr. and Mrs. Lepat claimed that Kari and his sister, Mona, were staying with them and Kari used to give them RM600 per month for their personal expenses. Kari also was supporting Mona and he used to give her RM200 per month for her transport, stationeries and other personal expenses. Mona intends to claim for her loss as a result of his brother's demise, as dependant. Mr. and Mrs. Lepat also paid the sum of RM5,000 for Kari's funeral expenses.

While, Ms.Tini is survived by her husband Kasim aged 45 years and two (2) children, Hasan aged 7 years old and Ros aged 5 years old, at the time of the accident. Kasim now has to engage a maid to look after the children, but cannot afford to do so as the cost is high for him i.e. RM500 per month. Kasim only works as an apartment security guard with an income of RM1,000 per month. Currently the children are being looked by Kasim's neighbour on gratuitous basis. However, the neighbour will only be able to look after the children for about 5 to 6 months.

Continued...

Before her death, Ms. Tini used to sell nasi lemak in front of Jalan Besar, near her house. She did not have any liciense to do so. She used to earn RM600 per month and spend RM200 for her personal clothing and cosmetics. The balance RM400 was used for the family's upkeep.

Kelly was injured around both her legs. Her leg has now been amputated above the knee. She was working as an engineer earning RM3,500 per month. She was admitted to General Hospital, Melaka as it is the nearest to the place of accident and also nearest to her house. However, as she is worried about her leg being amputated, she asked to be discharged and went to the Jaya Specialist Hospital. Later, three days after being admitted at the Jaya Specialist Hospital, the specialist informed her that her legs need to be amputated as the condition had worsened. Her medical bill at the Jaya Specialist Hospital came to RM35,000. She was admitted for 2 months and was on medical leave for a year.

Two years after the accident, she was dismissed by the company as she was unable to work efficiently as an engineer (as she has difficulty to move around and attending meetings on time).

As solicitors for ADG Eastern Bhd., insurers of m/lorry no. BSD4555, write an opinion advising them on the possible claims that could be made by the relevant parties (Kelly, Tini's and Kari's dependants) based on the above facts.

(Total: 50 marks)

Continued...

QUESTION 2

Draft a simple 'Will' with the following details. Please include a revocation clause, residuary clause and special instructions clause relating to funeral arrangements in the 'Will'

i. **The testator**: Mr. Smith
ii. **NRIC No. of the Testator**: 782410-04-5146
iii. **Executrix**: Lawful daughter, Ms. Cristina (NRIC No. 901414-04-5287)
iv. **Property**: to two sons, Mr. Joseph & Mr. Joshua and daughter, Ms. Cristina
-Bungalow house – No.15, Jalan Mewah 1, 45210 Ayer Keroh Lama, Melaka.
-Land H.S.(D) No. 1524 for Lot No. 215 in the Mukim of Keningau, Melaka

(Total: 25 marks)

SECTION B [Choose any One (1)]

QUESTION 3

(a) Dr. R. Tong, 56 years old, suffered colon cancer. He has made a valid will to secure his property. He is a businessman and the purpose of making the will is to make sure his wife, and all his three (3) children will get the benefit from his property upon his death. However, yesterday he came to see you, his solicitor again and informed you that he has left out certain assets in the will and some assets has just been acquired recently. He wants you to include these in the will.

Advise Dr. R. Tong.

(4 marks)

(b) What is a codicil and what is the purpose of having a codicil in a Will?

(4 marks)

(c) Discuss the following:

a. A Holographic Will
b. Chain of Executorship
c. Explain (3) THREE situations when a Letter of Administration with Will Annexed (LAWA) can be granted.

(17 marks)
(Total: 25 marks)

Continued...

QUESTION 4

Salleh, aged 65 years old, is the owner of SS supermarket. He appointed Mr. Dollah (his daughter's best friend) as his executor on 12.2.2016. One month after the appointment, he died.

Before the grant of representation was issued by the Court, Salleh's friend, Mr. Chee Ting intermeddled with a few of Salleh's properties, basically houses at Jalan Cemerlang. He rented the houses to Mr. X, Mr. J and Mr. D respectively. At the end of every month he would collect the rental payments amounting to RM500 for each house.

Salleh's beneficiaries were unhappy with Mr. Chee Ting's act. Upon granting of representation, Mr. Dollah asked Mr. X, Mr. J and Mr. D to vacate the house respectively. All three of them refused to vacate the houses claiming that they had rented the houses through Mr. Chee Ting and paid the rental without fail.

At the same time, Mr. Chee Ting claimed that Salleh had verbally informed him that he could rent out the houses to anyone he thought fit in order to settle the debt that Salleh owed to him. The alleged amount owed is around RM10,000.

Advise Mr. Chee Ting and Mr. Dollah on their respective positions.

(Total: 25 marks)

End of Page